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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,991	06/20/2001	Bruce H. Levin	10527/11	5652

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KENYON & KENYON  
1500 K STREET, N.W., SUITE 700  
WASHINGTON, DC 20005

EXAMINER

PEFFLEY, MICHAEL F

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 12/18/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/883,991	LEVIN, BRUCE H.	
	Examiner	Art Unit	
	Michael Peffley	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59, 61, 62 and 64-72 is/are pending in the application.
- 4a) Of the above claim(s) 1-48, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-59, 61, 62 and 66-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 29, 2003 has been entered.

***Election/Restrictions***

Claims 1-48, 64 and 65 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

***Priority***

Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 49-54, 56-59, 66 and 68-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishikawa et al ('206).

The Ishikawa et al reference discloses a medical label system which includes a label (15) including an integrated circuit which identifies a medical product by transmitting a radio frequency identifier. The system includes a computer system (17) which receives the information and tracks the location of the medical product. The label may be used to identify and track any number of medical products ranging from medications to surgical devices such as gloves, instruments and sponges (see Figures). The label is made from a variety of materials which would give it properties such as temperature resistance and water resistance (col. 3, lines 15-45). The integrated circuit is shown in Figure 6 and includes an analog front end (i.e. coil and RF amplifier) with a controller (83) and a memory (79) coupled to the front end.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 54-59, 61, 62 and 69-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al ('206).

As addressed previously, Ishikawa et al disclose a medical label system which is used to identify and track various medical and non-medical products. Ishikawa et al disclose various materials for the label, but fail to expressly point out that the materials are temperature resistant, water resistant and/or shock resistant. The examiner maintains that due to the materials used to create the label, it would obviously, if not inherently, include these properties. Also, Ishikawa et al disclose several products which are labeled including prescription medication and medical devices, but fail to specifically disclose the use of the label to identify blood products. It is the examiner position that one of ordinary skill in the art would recognize that such a label may be used to identify and track any product, including blood products, and would also obviously recognize the various data which may be saved by such a label.

To have provided the Ishikawa et al label on any medical or non-medical product, including blood products, to identify and track the product would have been an obvious consideration for one of ordinary skill in the art.

Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al ('206) in view of the teaching of Imaichi et al ('747).

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While Ishikawa et al disclose an integrated circuit having an analog front end located on a label, there is no specific teaching or disclosure that the label includes an LC circuit.

The examiner maintains that the use of LC circuits in integrated circuit designs is very well known. Further, Imaichi et al specifically teach that it is known to provide RFID labels with an LC circuit on the tag (see Abstract).

To have provided the Ishikawa et al label with an LC circuit on the label for communicating data would have been an obvious consideration for one of ordinary skill in the art, particularly since Imaichi et al teach that it is known to use LC circuits on RFID tags.

### ***Conclusion***

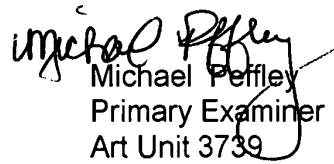
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Petrick ('129), Kwong-Tai Chung ('788), Rich ('110), Nikolich ('562), Yarin et al ('999) and O'Brien ('942) all disclose various RFID tags for identifying/tracking medical products and storing information regarding the product.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
Michael Peffley  
Primary Examiner  
Art Unit 3739

mp  
December 12, 2003